

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, *ex rel.*
MICHAEL S. LORD,

Plaintiffs/Relator,

- v. -

NAPA MANAGEMENT SERVICES
CORPORATION, NORTH AMERICAN
PARTNERS IN ANESTHESIA
(PENNSYLVANIA), LLC, and POCONO
MEDICAL CENTER,

Defendants.

Civil Action No.: 3:13-CV-2940

JUDGE MANNION

ELECTRONICALLY FILED

THIRD MOTION TO STAY PROCEEDINGS
FOR AN ADDITIONAL 30 DAYS

Pursuant to Local Rule 83.10 Conflicts and Continuances, Gerald Lawrence, Esq. and Lowey Dannenberg, P.C. (“Movants”) file this Motion to Stay Proceedings for an Additional 30 Days for Relator to continue his search to retain new counsel, so that Movants may then withdraw as counsel given Relator’s discharge of Movants. To support this Motion, Movants state:

1. On December 6, 2013, Movants filed the complaint under seal on behalf of Relator, asserting claims for violation of the False Claims Act (“FCA”) under 31 U.S.C. §3729(a)(1) & (2); wrongful discharge and harassment in violation of FCA; and breach of contract under Pennsylvania law.

2. On November 7, 2016, the government declined to intervene. D.E. 24. Pursuant to the Court's November 8, 2016 Order (D.E. 25), Relator filed a redacted complaint on December 7, 2016, which was to be unsealed on December 14, 2016. D.E. 26.

3. On March 3, 2017, Defendant Pocono Medical Center ("PMC") and Defendants NAPA Management Services Corporation and North American Partners in Anesthesia (Pennsylvania), LLC (collectively, "NAPA")¹ moved to dismiss. D.E. 50-52.

4. On June 20, 2017, the Court granted PMC's motion to dismiss with prejudice. D.E. 73-74.

5. On November 14, 2017, the Court granted in part and denied in part NAPA's motion to dismiss. D.E. 76-77.

6. On January 11, 2018, NAPA filed its Answer. D.E. 82.

7. The parties have begun exchanging document discovery.

8. Irreconcilable differences have arisen which render it impossible for Movants to continue as legal counsel for Relator. After being fully informed, Relator has discharged Movants and has authorized them to withdraw as counsel.

¹ On March 27, 2017, Relator voluntarily dismissed his claims against Defendant North American Partners in Anesthesia, LLP without prejudice. D.E. 60.

9. On May 1, 2018, Movants filed a motion to withdraw the appearance of counsel and stay proceedings for 60 days. D.E. 83. On May 2, 2018 the Court denied Movants' motion to withdraw the appearance of counsel for the Relator and to stay proceedings. D.E. 84 The Court denied the motion without prejudice until new counsel had entered an appearance. *Id.*

10. On May 16, 2018, Movants filed a motion for reconsideration of the Court's May 2, 2018 order and to stay proceedings. D.E. 85. The Court granted in part Movants' reconsideration motion, staying all proceedings until July 13, 2018. in order for Relator to engage new counsel, permitting counsel to withdraw only after new counsel has entered their appearance. D.E. 87.

11. On July 6, 2018, the Court granted Movants' request for a thirty (30) day extension. D.E. 89. On August 20, 2018, the Court granted Movants' additional request for a thirty (30) day extension set to expire on September 13, 2018. D.E. 91.

12. Relator and Movants have actively continued to communicate since Relator discharged Movants on April 26, 2018, in order to smoothly transition Relator into finding new counsel.

13. Relator has actively been searching for new counsel. Since the Court granted Movants' request on August 20, 2018 (D.E. 91), Relator has informed Movants that he continues to engage in communications with a final few firms who

have expressed a strong interest in representing the Relator. However, those discussions are still ongoing, with Movants attesting to substantial progress being made. The attorney-client privilege and applicable ethical rules (*see, e.g.*, Pa. Rules of Professional Conduct R. 1.9(c)(2)) prohibit Movants from revealing specific information relating to Relator's efforts to find new representation; however, at the Court's discretion, Movants are available to discuss the matter *in camera* with the Court.

14. Relator communicated with Movants on September 12, 2018 to provide a detailed status update that he has "been actively pursuing counsel." Relator believes that he is "quite close to securing representation, but don't have an agreement yet;" and that "unfortunately, need[s] to request one more extension to tie this up." Relator further stated that he has "worked diligently on this." Relator also indicated that he spoke to potential new counsel as recently as September 12, 2018, and is hopeful that that he will secure new counsel shortly.

15. Given the upcoming expiration of the Court's thirty (30) day stay on September 13, 2018, Movants and Relator respectfully request the Court grant an additional thirty (30) day extension of the stay so that Relator may continue and finalize his search for new counsel.

16. After conferring, Defense counsel does not oppose this motion. Defendants consented to the original stay, and two subsequent extensions.

WHEREFORE, Gerald Lawrence, Esq. and Lowey Dannenberg, P.C.
respectfully request this Honorable Court to grant their motion to stay this matter
for an additional thirty (30) days until October 15, 2018, while Relator continues
his search to retain new counsel.

Dated: September 13, 2018

Respectfully submitted,

LOWEY DANNENBERG, P.C.

/s/ Gerald Lawrence, Esquire

Gerald Lawrence, Esquire

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CERTIFICATE OF CONCURRENCE

The undersigned certifies that he sought concurrence from Defendants.

Counsel for Defendants have advised they do not oppose this Motion

/s/ Gerald Lawrence, Esquire
Gerald Lawrence, Esquire

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CERTIFICATE OF SERVICE

GERALD LAWRENCE, hereby certifies that on the 13th day of September, 2018, he caused to be served true and correct copies of the foregoing documents by ECF on all counsel of record.

Dated: September 13, 2018

Respectfully submitted,

LOWEY DANNENBERG, P.C.

/s/ Gerald Lawrence, Esquire

Gerald Lawrence, Esquire

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